

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Matec SRL, *et al.*,

Plaintiff,

—v—

Gramercy Holdings I, LLC, *et al.*,

Defendants.

USDC SDNY
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20-cv-4136 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On August 11, 2020, Defendants filed a motion to dismiss. Pursuant to Rule 3.F. of this Court's Individual Practices in Civil Cases, on or before August 24, 2020, Plaintiff must notify the Court and its adversary in writing whether (1) it intends to file an amended pleading and when it will do so or (2) it will rely on the pleading being attacked. Plaintiff is on notice that declining to amend its pleadings to timely respond to a fully briefed argument in the Defendants' August 11 motion to dismiss may well constitute a waiver of the Plaintiff's right to use the amendment process to cure any defects that have been made apparent by the Defendants' briefing. *See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC.*, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility").

If Plaintiff chooses to amend, Defendants may then (a) file an answer; (b) file a new motion to dismiss; or (c) submit a letter stating that they rely on the initially-filed motion to dismiss.

Nothing in this Order alters the time to amend, answer or move provided by the Federal Rules of Civil Procedure or Local Rules.

Additionally, no affidavit of service has been filed as to Defendant Luca Martinelli. Plaintiffs are directed to file an affidavit of service no later than August 24, 2020.

The initial pretrial conference scheduled for October 30, 2020 is adjourned pending resolution of this motion.

SO ORDERED.

Dated: August 14, 2020  
New York, New York



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ALISON J. NATHAN  
United States District Judge